3. INDEPENDENT LIVING

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1 ***Q:*** Does title IV-E preclude a State agency from passing on to the child title IV-E funds for his use for his maintenance in an independent living program?

(Deleted 02/25/2011)

3.1 INDEPENDENT LIVING, Certifications and Requirements

1 ***Q:*** Will States need to make any specific changes in their legislation and policy to comply with the Chafee Foster Care Independence Program (CFCIP)?

A: States should review their laws and make changes, as appropriate, to assure consistency with the expanded purposes of the CFCIP program. We anticipate that some State policy changes will be necessary. In particular, States should look for possible legal or regulatory conflicts around age limits for services (both the removal of a lower age limit and serving youth between ages 18 and 21), age issues concerning room and board provisions, and Medicaid eligibility requirements.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477(b)(3)

2 ***Q:*** Who is considered the Chief Executive Officer (CEO) of the State for purposes of signing the certifications?

A: Section 477 (b)(3) of the Social Security Act requires the CEO of the State to certify that the State will adhere to various provisions of the program. The highest ranking official is considered the Chief Executive Officer, that is, the governor of each State and Territory and the mayor of the District of Columbia. If the governor has the legal authority under state law to delegate the responsibility to someone else and makes such a legal delegation, that person may sign the certifications for the governor.

Source: *Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program*

Reference: *Social Security Act - section 477(b)(3)*

3.1A INDEPENDENT LIVING, Certifications and Requirements, Adolescent Participation

1 ***Q:*** Is there a Federal requirement for the State to formulate a life skills assessment or enter into a personal responsibility contract with each youth receiving services under the CFCIP?

A: No. The certification at section 477(b)(3)(H) requires the State to ensure that "adolescents" participate directly in designing their own program activities "and accept personal responsibility for living up to their part of the program." There is no specific requirement for States to utilize life skills assessments or personal responsibility contracts to comply with this certification. However, various assessment tools and personal responsibility contracts are currently used by some States to assist youth to make the transition from adolescence to adulthood and we believe that this is a good approach to determining needs and developing appropriate services.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477(b)(3)(H)*

3.1B INDEPENDENT LIVING, Certifications and Requirements, Age

1 ***Q:*** Is it correct that there is no minimum age requirement for youths to receive Chafee Foster Care Independence Program (CFCIP) services?

A: Yes. It is correct that there is no minimum age requirement for the CFCIP program. The CFCIP legislation gives States broad discretion to define the population of children who are "likely to remain in foster care until age 18."

Source: *Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program*

Reference: *Social Security Act - section 477(a)*

2 **Q:** Who must the State serve in the age 18-21 category in independent living services?

A: Section 477(b)(3)(A) of the Social Security Act requires States to provide services to youth between ages 18 and 21 who left foster care because they attained 18 years of age. Therefore, States must serve youth between ages 18 and 21 who left foster care because they turned 18 ("aged out" of foster care) and may serve other former foster care youth who did not "age-out" of foster care.

Source: *Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program*

Reference: *Social Security Act - section 477(b)(3)(A)*

3 **Q:** At what age do independent living services have to be provided to foster care youth?

A: Pursuant to section 475 of the Social Security Act, the State is required to develop and implement a case plan that, for children age 16 and older, identifies those programs and services that will be provided to assist the youth in transitioning from foster care to independence. The Chafee Foster Care Independence Program (CFCIP) is a funding resource for independent living programs and services, with no lower age limit requirements, and is available for youth who meet the State's eligibility requirements for CFCIP. However, the requirements at Section 475 of the Act must be met even for those youth who are not eligible for CFCIP.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 475(1)(B) and (1)(D), section 477*

3.1C INDEPENDENT LIVING, Certifications and Requirements, Coordination

1 ***Q:*** What is specifically being asked of the State regarding the coordination requirement at 477(b)(3)(F) of the Social Security Act?

A: The law requires each State to coordinate its Independent Living Program and services with other agencies and providers that serve youth. Programs listed in the legislation (transitional living programs, abstinence education programs, local housing programs, programs for disabled youth and school-to-work programs) must be included in the State's coordination effort; however, we encourage States to coordinate with an even broader range of youth-oriented agencies and programs such as health-related programs, local job training and employment programs, community colleges and youth shelters. Regulations at 45 CFR 1357 offer guidance on how the State must consult and coordinate with other public/private entities for the title IV-B program that might be useful to the State in implementing the CFCIP program.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477(b)(3)(F); 45 CFR 1357

3.1D INDEPENDENT LIVING, Certifications and Requirements, Fraud and Abuse

No questions and answers are available at this time.

3.1E INDEPENDENT LIVING, Certifications and Requirements, Miscellaneous Requirements

1 ***Q:*** Does the court have to approve the youth's case plan that describes the services needed for him/her to transition from adolescence to adulthood?

A: No. The Social Security Act at sections 475(1) and (5) addresses case plan and case review system requirements for titles IV-E and IV-B. There is no statutory requirement for judicial approval. The court's role is to exercise oversight of the permanency plan, review the State agency's reasonable efforts to prevent removal from the home, reunify the child with the family, conduct permanency hearings and finalize permanent placements. Although approval is not required, the court must address, as part of the permanency hearing, the services needed to assist youth ages 16 and over to make the transition from foster care to independent living.

Source: 7/25/027/25/02

Reference: Social Security Act - section 475(1) and (5)

Child Welfare Policy Manual 8.3C.1

3.1F INDEPENDENT LIVING, Certifications and Requirements, Objective Eligibility Criteria

1 ***Q:*** What are the program eligibility requirements for programs and services provided by the State?

A: The State determines, within the purposes defined in the statute at section 477(a) of the Social Security Act (the Act), the assistance and services that will be made available to all youth whom the State defines as eligible for the program.

In defining the program eligibility requirements, the State is required:
1) to ensure that the programs serve children of various ages and at various stages of achieving independence (section 477(b)(2)(C) of the Act);
2) to use objective criteria for determining eligibility for benefits and services under the programs (section 477(b)(2)(E) of the Act); and
3) to ensure fair and equitable treatment of benefit recipients (section 477(b)(2)(E) of the Act).

The Department supports positive youth development, which values youth and an individual youth's involvement in planning his/her activities and goals. Furthermore, we view independent living as part of the developmental process critical to the well-being of all children and youth. States are expected to develop or locate services and training that are appropriate to the individual's age, circumstances and developmental needs.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477

2 **Q:** If a foster care youth (under age 18) is placed in another State, which State is responsible for providing the funding for CFCIP services?

A: The sending State is responsible for foster care maintenance payments, case planning, including a written description of the programs and services which will help a child 16 or over prepare for the transition from foster care to independence, as required by section 475(1)(D) of the Social Security Act (the Act) and a case review system as required by section 475(5)(C) of the Act. The sending State must also fund the identified independent living services for foster care youth ages 16-18 because the sending state has placement and care responsibility for the youth.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 475*

3 **Q:** If a former foster care youth (between the ages of 18-21) moves from the State in which he or she aged out of foster care to another State, which State is responsible for providing CFCIP services?

A: Section 477(b)(3)(A) requires States to certify that they will provide assistance and federally-funded CFCIP services to youth who have left foster care because they have attained 18 years of age. It is irrelevant where the youth "aged out" of foster care. The State in which the youth resides is responsible for services if the State provides the services needed by the youth.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477(b)(3)(A)*

4 **Q:** Does marriage have any impact on a youth's eligibility for CFCIP?

A: Section 477(b)(2)(E) of the Act requires the State to use objective criteria for determining eligibility for the CFCIP program. The State may decide that marriage will be considered in determining a youth's eligibility for CFCIP. Once the eligibility criteria are set, all youth must be treated equitably.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477(b)(2)(E)*

5 **Q:** Can former foster care youth be required by the court to participate in the CFCIP?

A: The court may order a youth to participate in independent living services, however, the youth must meet the State's eligibility requirements to be eligible for services. Additionally, section 477(b)(3)(H) requires the State to ensure that youth participate directly in designing their own program activities that prepare them for independent living and that the youth accept personal responsibility for living up to their part of the program. If a youth is unwilling to participate or accept personal responsibility, he/she cannot receive services.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477(b)(3)(H)*

6 **Q:** Are youth who do not age out of the foster care system because permanency was attained prior to age 18 eligible for CFCIP services? For example, a youth was in foster care but reunited with his/her family and is living at home or was adopted before attaining 18 years of age. Would such a youth be eligible for CFCIP services at age 18?

A: Section 477(b)(3)(A) requires States to provide federally-funded CFCIP services to youth between ages 18 and 21 who left foster care because they attained 18 years of age. The State may also provide assistance and services to other former foster care youth whom the State defines as eligible, consistent with the statutory purposes defined in section 477(a). The

youth in the example could receive federally-funded CFCIP services if the State included former foster care youth who did not "age out" of foster care at age 18 in its eligibility criteria. However, room and board is available only to the extent consistent with the limitation in section 477(b)(3)(B).

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477*

3.1G INDEPENDENT LIVING, Certifications and Requirements, Room and Board

1 ***Q:*** What is meant by "room and board" as used in section 477(b)(3)(B) of the Social Security Act? Is it intended to cover all cost items included in the title IV-E foster care maintenance payment definition? Would it also include such costs as rental deposits, rent, utilities, and household start-up purchases?

A: "Room and board" has no statutory definition, but typically includes shelter and food. These are the most expensive and essential items that youth ages 18-21 may not be able to cover with their own incomes. The term does not include all items covered by the title IV-E foster care maintenance payment definition. States may set a reasonable definition of room and board that may include rent deposits, utilities and other household start-up purchases. In setting the definition, States should be cautioned that the number of items that are covered in the definition of "room and board" may impact the number of youth the State can actually assist.

Source: *Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program*

Reference: *Social Security Act - section 477(b)(3)(B)*

2 **Q:** Does the law at 477 (b)(3)(A) and (B) of the Social Security Act (the Act) allow "room and board" payments for youth between 18-21 years of age who are in a higher education situation?

A: Yes. The law allows it, but does not mandate it. Section 477(b)(3)(A) and (B) of the Act provide that no more than 30 percent of Federal funds from the allotted amount can be used for room and board for youth 18-21 who have aged out of foster care. States may set criteria for the use of these funds that may or may not include college attendance.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477(b)(3)

3 **Q:** Can a State provide Chafee Foster Care Independence Program (CFCIP) funds to an organization for the purpose of acquiring real property under the statutory provision that permits limited room and board expenditures for former foster care children between the ages of 18 and 21?

A: Federal funds are generally unavailable for the acquisition of real property in the absence of express statutory authority and there is no such authority in the CFCIP legislation. Accordingly, neither States themselves nor the organizations they fund may purchase real property with CFCIP funds. Additionally, States may not use purchased property to qualify for the match to CFCIP funds.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477; 42 Comptroller General 480 (1963)

4 **Q:** May a State use Chafee funds to provide room and board for youth (between the ages of 18-21) who voluntarily remain in foster care?

A: Although the law does not expressly contemplate youth ages 18-21 in foster care, allowing room and board for these youth accords with the statutory purposes identified in sections 477(a)(1-5) of the Act. Therefore, it is permissible to expend Chafee funds for youth between the ages of 18-21 who voluntarily remain in State foster care including room and board services. However, a State may not require youth to remain in foster care over the age 18 in order to receive CFCIP services. The certification at section 477(b)(3)(A) stipulates that the State will serve youth who have left foster care because they have attained 18 years of age. Requiring a youth to remain in foster care to receive services contravenes this certification. The State must also meet the Federal non-supplantation requirement for youth ages 18-21. Federal funds spent for room and board for youth 18-21, both in and out of foster care, are subject to the 30 percent expenditure limitation found at section 477(b)(3)(B).

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477*

3.1H INDEPENDENT LIVING, Certifications and Requirements, Training

1 **Q:** What funds under section 477(b)(3)(D) of the Social Security Act (the Act) will be used for training the individuals listed there and whose responsibility is it to train them?

A: The certification at section 477(b)(3)(D) of the Act requires the State or Tribe receiving Chafee funds to train the categories of people enumerated therein and to utilize the funds that are available for this purpose. The funds specified at section 474(a)(3) of the Act are the administrative dollars which can be claimed for such training. Under that section of the Act, the cost of training certain individuals is reimbursable from title IV-E administrative funds at the rate of up to 75 percent Federal Financial Participation (FFP). If the State/Tribe with an approved title IVE plan contracts with private entities to perform case management functions, it may claim the percent reimbursement permitted by statute for training the contractor's staff to perform the contracted functions. The certification for training in the CFCIP law simply adds independent living training to the pool of allowable title IV-E training activities; it has no general impact on the FFP match for training costs. In addition, regulations at 45 CFR 1356.60 (b)(2) require that all training activities and costs funded under title IV-E shall be included in the title IV-E agency's training plan for title IV-B. The certification at section 477(b)(3)(D) of the Act also

encourages such training to be coordinated with the Chafee Foster Care Independence Program training conducted for youth participants.

Source: Questions and Answers on the Chafee Foster Care Independence Program; revised 08/31/09Questions and Answers on the Chafee Foster Care Independence Program; revised 08/31/09

Reference: Social Security Act - sections 474 and 477

2 **Q:** Does the law permit training to be directly charged to title IV-E or must the training costs be cost allocated?

A: States and Tribes receiving Chafee funds should treat independent living training for foster parents, adoptive parents, case managers and workers in group homes on independent living issues like any other training costs under title IV-E and allocate appropriately.

Source: Questions and Answers on the Chafee Foster Care Independence Program; revised 08/31/09Questions and Answers on the Chafee Foster Care Independence Program; revised 08/31/09

Reference: Social Security Act - sections 477 and 474; 45 CFR 235, 45 CFR 1356.60

3 **Q:** May States claim the costs of training foster parents under their CFCIP funds?

A: No. The certification at 477(b)(3)(D) specifies that States "will use training funds provided under the program of Federal payments for foster care and adoption assistance" to provide training to help foster parents, adoptive parents, workers in group homes, and case managers understand and address issues confronting adolescents. Since the statute expressly directs that title IV-E administrative funds be used for training, Chafee funds are not permitted for this use.

Source: 7/25/027/25/02

Reference: Social Security Act - section 477(b)(3)(D)

3.1I INDEPENDENT LIVING, Certifications and Requirements, Tribal

1 ***Q:*** Must the Tribes participate in the title IV-E program in order to access Chafee Foster Care Independence Program (CFCIP) funds and services? Is their participation in the title IV-E program a prerequisite for soliciting their input?

A: The answer to both of these questions is "no." Section 477(b)(3)(G) of the Social Security Act requires each State to consult with each Indian Tribe within the State. States must certify that each Indian Tribe in the State has been consulted on the programs to be carried out under the State plan, that the State made efforts to coordinate programs with the Tribes and that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State. Whether or not a Tribe has a title IV-E agreement with the State is immaterial.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477(b)(3)(G)

2 ***Q:*** Are entities other than "tribes" included in the requirements at section 477(b)(3)(G) of the Social Security Act?

A: Yes. Any Indian Tribal Organization that is federally recognized is included.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477(b)(3)(G)

3 ***Q:*** How will the State document its compliance with the requirements to consult and coordinate with the Tribes?

A: Section 477 (b)(3)(G) of the Social Security Act requires the CEO of the State to certify that the State has consulted with every Tribe within the State. The certification form (Attachment B of

ACYF-CB-PI-01-02) also requires the State to provide the dates of consultations with the Tribes.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477(b)(3)(G); ACYF-CB-PI-01-02

4 ***Q:*** Why is the requirement for States to consult with Tribes in the Chafee Foster Care Independence Act?

A: The original bill, HR 1802, which required States to inform Tribes about the enhanced independent living program, was strengthened in the final law to require consultation with the Tribes about the programs to be carried out under the State plan. Included in the Congressional Record of the House, dated June 25, 1999 are remarks from one representative concerning the upgrading of this provision. "Tribes are in the best position to know the needs of Indian children and of possible local resources available for assistance, and this amendment is a first step in recognizing the level of communication and coordination that is necessary for the provision of independent living services." The Department expects that consultation with Tribes will take place as explicitly required, that there have been efforts to coordinate the programs with such Tribes, and that benefits and services will be made available to Tribal youth as specified at section 477(b)(3)(G) of the Social Security Act.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477(b)(3)(G)

5 **Q:** Some Tribal representatives feel the wording for the assurance at 477(b)(3)(G) should indicate that "benefits and services under the programs will be made available to Indian youth in the State on *"an equal basis"* rather than on "the same basis" as to other youth in the State. Is the change in wording allowable?

A: No. The certifications are taken directly from the law. "On the same basis" means that the State will provide program services equitably to both State and Indian children who meet the State's eligibility criteria. This is further supported by section 477(b)(2)(E) of the Act with the requirement that States must ensure fair and equitable treatment of benefit recipients.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477(b)(3)(E) and (G)*

3.2 INDEPENDENT LIVING, Data Collection

No questions and answers are available at this time.

3.2A INDEPENDENT LIVING, Data Collection, Data Elements

1 **Q:** Do tribal youth, youth involved with the juvenile justice system, youth who receive services through the staff of a group home or child care institution, and youth no longer in foster care fall within the served population as defined in 45 CFR 1356.81(a)?

A: In general, as required in 45 CFR 1356.81(a), a youth is in the served population if during the report period, the youth received at least one independent living service paid for or provided by the State agency. An independent living service is provided by the State agency if it is delivered by State agency staff or an agent of the State, including a foster parent, group home staff, child care institution staff or the service is provided pursuant to a contract between the State agency and a provider, agency or any other entity regardless of whether the contract includes funding for the particular service. The served population is not limited on the Federal level by age, foster care status or placement type, although State eligibility rules for their independent living programs may restrict which youth receive independent living services. Therefore, tribal youth, youth involved with the juvenile justice system, youth who receive services through foster care providers and youth no longer in foster care are a part of the served population if they receive an independent living service paid for or provided by the State agency during the report period.

Source: 73 FR 10340 (February 26, 2008); (01/26/10)73 FR 10340 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f)(1)(B)(i);

45 CFR 1356.81(a)

2 ***Q:*** How is the served population as defined in 45 CFR 1356.81(a) distinct from or related to the baseline and follow-up population as defined in 45 CFR 1356.81(b) and (c)?

A: The National Youth in Transition Database (NYTD) has two separate but related components: independent living services and youth outcomes. The reporting populations are separate for each component, although not mutually exclusive.

States are to collect and report independent living services information on youth who fall within the served population, as defined by 45 CFR 1356.81(a). The served population is made up of youth who have received at least one independent living service that is paid for or provided by the State agency during a six-month report period. The youth?s age and foster care status is not relevant to whether he or she is in the served population.

States are to collect and report outcomes information on youth who are in the baseline and follow-up populations, as defined by 45 CFR 1356.81(b) and (c) respectively. The baseline population is comprised of all 17-year-olds in foster care during a year in which such outcomes data is due (beginning in Federal Fiscal Year (FFY) 2011), regardless of whether the youth receives any services. The follow-up population is a subgroup of the baseline population: youth who participated in the outcomes data collection when they were 17 years old, but who are now 19 or 21 years old. A few simple examples (that do not address sampling) illustrate how the reporting populations may overlap or diverge:

- <u>Example 1</u>. In December 2010, a youth turns 17 years old while in foster care and takes a budgeting class that is paid for by the State agency in January 2011. This youth would be part of the served population for the first report period of FFY 2011 (October 1, 2010 through March 31, 2011) and reported as receiving the? budget and financial management? service. The same youth would also be a part of the baseline population for whom the State must administer the outcomes survey. This is because FFY 2011 is a year in which the States must collect data on the baseline population, which is comprised of those youth in foster care

who reach their 17th birthday in the FFY.
- <u>Example 2</u>. In November 2011, a different 17-year-old in foster care takes a budgeting class that is paid for by the State agency. This youth would be part of the served population for the first report period of FFY 2012. However, there is no outcomes data collection due in FFY 2012. Therefore, the youth is not in the baseline population.
- <u>Example 3</u>. In December 2012, the same youth from example 1 reaches 19 years old. By the end of March 2013, this youth had not received any independent living services that were paid for or provided by the State agency during the first report period (October 1, 2012 through March 31, 2013), so the youth is not a part of the served population. However, two years ago, this youth completed the outcomes survey as part of the baseline population. Therefore, the youth is a part of the follow-up population and the State is required to collect and report outcomes data for this youth.

Source: 73 FR 10341 (February 26, 2008); (01/26/10)73 FR 10341 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f)(1)(B)(i);

45 CFR 1356.81(a), (b), and (c)

3 ***Q:*** Does a youth have to be in foster care on their 17th birthday to be included in the baseline population?

A: A youth does not need to have his or her 17th birthday while in foster care, but consistent with the data collection rule in 45 CFR 1356.82(a)(2), the youth must have been in foster care within 45 days following his or her 17th birthday during the specified reporting year.

Source: 73 FR 10342 (February 26, 2008); (01/26/10)73 FR 10342 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f)(1)(B);

45 CFR 1356.82(a)(2)

4 **Q:** Who is included in the follow-up population as defined in 45 CFR 1356.81(c)? Are youth who remain in foster care at ages 19 and 21 in the follow-up population? Would youth in the follow-up population at age 19 need to have participated in the outcomes data collection to be a part of the follow-up population at age 21?

A: The follow-up population as defined in 45 CFR 1356.81(c) is comprised solely of youth who are either 19 or 21 years old who participated in the outcomes data collection as part of the baseline population at age 17. A youth is considered to have participated at age 17 if he or she provided at least one valid answer to a question in the outcomes survey. A youth who participated in the data collection at age 17, but not at age 19 for a reason other than being deceased remains a part of the follow-up population at age 21. A youth is in the follow-up population as described regardless of the youth?s foster care status at ages 19 or 21 and regardless of whether the youth ever received independent living services.

Source: 73 FR 10342 (February 26, 2008); (01/26/10)73 FR 10342 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f)(1)(B);

45 CFR 1356.81(c), 45 CFR 1356.82(a)(3)

5 **Q:** Are States that sample required, per 45 CFR 1356.83(e), to identify the 19-year-old youths who participated in the outcomes data collection as part of the baseline population at age 17, and who are not in the sample?

A: Yes. This information is required so that ACF can determine whether the State meets the outcomes universe and participation rate standards (45 CFR 1356.85(b)). A State must identify such youth in the two semi-annual report periods for the Federal fiscal year in which the State reports actual outcomes information on 19-year-old youth who are in the sample (45 CFR 1356.83(g)(34)). States will not report information on non-sampled youth again when the youth reach the age of 21 years old.

Source: 73 FR 10344 (February 26, 2008); (01/26/10)73 FR 10344 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f);

45 CFR 1356.82(b), 45 CFR 1356.83(e) and (g)

3.2B INDEPENDENT LIVING, Data Collection, Outcome Measures

1 ***Q:*** Regarding the data element required in 45 CFR 1356.83(g)(6), does the race category of American Indian or Alaska Native include youth who have an attachment or affiliation with a non-Federally recognized Tribe?

A: The race category does include youth who identify with an American Indian or Alaska Native Tribe regardless of whether that Tribe is recognized by the Federal government. This race category is per the Office of Management and Budget?s Provisional Guidance on the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity, at http://www.whitehouse.gov/omb/inforeg/re_guidance2000update.pdf

(See 73 FR 10345).

Source: 73 FR 10345 (February 26, 2008); (01/26/10)73 FR 10345 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f);

45 CFR 1356.83(g)(6)

2 ***Q:*** What is the difference between educational financial assistance as required in 45 CFR 1356.83(g)(32) and educational aid as referenced in 45 CFR 1356.83(g)(41)?

A: ?Educational financial assistance? is a <u>service</u> element that refers to financial supports that the State agency pays for or provides for the youth; ?educational aid? is an <u>outcome</u> element and refers to monies or other types of educational financial aid, from any source, that helps cover the youth?s educational expenses as an indicator of their financial self-sufficiency. The intention is to obtain data on both concepts (See 73 FR 10349-10350).

Source: 73 FR 10349-50 (February 26, 2008); (01/26/10)73 FR 10349-50 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f);

45 CFR 1356.83(g)(32) and (41)

3 **Q:** Is the State permitted to conduct data cross-matching with other administrative databases to gather data on youth, such as those maintained by States to support corrections, Temporary Assistance for Needy Families, Medicaid, employment, education, and child support?

A: For outcomes data collection, ACF is requiring that the States use the survey method prescribed in 45 CFR 1356.82(a)(2). The State must administer the outcomes survey in Appendix B of 45 CFR Part 1356 to youth directly. Therefore, the State may not provide information in the data elements described in paragraphs 45 CFR 1356.83(g)(37) ? (g)(58) from any other source. On the other hand, information on the youth?s characteristics (e.g., adjudicated delinquent, educational level, or foster care status) does not need to be collected from the youth directly and may come from a source of administrative data.

Source: 73 FR 10350 (February 26, 2008); (01/26/10)73 FR 10350 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f);

45 CFR 1356.82(a)(2), 45 CFR 1356.83(g)(34) (58)

4 **Q:** Regarding the data required in 45 CFR 1356.83(g)(40), should a State report a youth who receives Supplemental Security Income/Social Security Disability Insurance (SSI/SSDI) payments which are applied to the cost of foster care or only those that are paid to the youth directly? What if a youth does not know he/she was an SSI/SSDI recipient if such payments were applied to the cost of foster care? Should a State correct a youth s response accordingly?

A: If the youth is a SSI/SSDI beneficiary but his or her payment is going towards the cost of foster care, then the youth is receiving social security payments consistent with the description for the data element in 45 CFR 1356.83(g)(40). However, the State is not to correct a youth?s response if the youth is a beneficiary but responds in the negative to the social security survey question. Although this may result in some cases of a youth answering the question incorrectly, it is important to the integrity of the survey and data to represent the youth?s understanding of his or her own circumstances.

Source: 73 FR 10351-52 (February 26, 2008); (01/26/10)73 FR 10351-52 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f)(1);

45 CFR 1356.83(g)(40)

5 **Q:** Please explain the calculation of the participation rate, as required in 45 CFR 1356.85(b)(3), to exclude youth who are deceased or institutionalized.

A: The regulation at 45 CFR 1356.85(b)(3) excludes youth who are reported by the State as deceased, incapacitated or incarcerated in the follow-up population in our calculation of the participation rate. Excluding individuals who should not participate due to the nature of the survey from the calculation of response rates is a standard practice. ACF will use the data States report in the outcomes reporting status element described in 45 CFR 1356.83(g)(34) in calculating the participation rate. For example, for a State that does not sample there are 215 17-year-old youth in the baseline population who participate in the outcomes survey. Two years later, none of the 215 youth are in foster care and five of these youth become incapacitated, incarcerated or deceased. In another two years, 10 more of the original baseline youth become incapacitated, incarcerated or deceased. ACF will calculate whether the State has reported some outcomes information on 60% of the remaining 200 youth in the follow-up population at age 21 to determine whether the State has met its participation rate.

However, please note that even though outcomes information for incapacitated, incarcerated and deceased youth will be unavailable for the report period, a State must still report all other information for such youth. For example a State may not report outcome data for an incarcerated youth during a report period, but must report service information if she received independent living services that were paid for or provided by the State agency at some point in the report period.

Source: 73 FR 10357 (February 26, 2008); (01/26/10)73 FR 10357 (February 26, 2008); (01/26/10)

Reference: Social Security Act section 477(f);

45 CFR1356.83(g)(34) and 45 CFR 1356.85(b)(3)

3.2C INDEPENDENT LIVING, Data Collection, Penalties for Noncompliance

No questions and answers are available at this time.

3.2D INDEPENDENT LIVING, Data Collection, Systems Requirements

1 ***Q:*** Please provide guidance on the Federal funding sources States may use to pay for the costs related to the NYTD and whether title IV-E reimbursement is available for States that do not incorporate NYTD functionality into their Statewide automated child welfare information systems (SACWIS).

A: A State may use Chafee Foster Care Independence Program (CFCIP) funds for any and all costs associated with implementing the NYTD. A State with a SACWIS must incorporate NYTD information collection and reporting activities related to children in foster care into their SACWIS and may claim such information system costs as administrative costs under title IV-E pursuant to section 474(a)(3)(C) and (D) of the Social Security Act to the extent they are allowable and consistent with a State's advanced planning document (APD) and cost allocation plan (45 CFR 1355.50 - 1355.57 and 1356.60(e)).

A State may not claim reimbursement under title IV-E for NYTD information system costs that are not incorporated into an approved APD for a SACWIS. The authority to claim information systems costs under title IV-E in 45 CFR 1356.60(d) is limited to collecting and reporting data necessary to meet the AFCARS requirements in 45 CFR 1355.40 and those necessary for the proper and efficient administration of the title IV-E State plan and not the CFCIP plan (See 73 FR 10361).

Source: 73 FR 10361 (February 26, 2008); (01/26/10)73 FR 10361 (February 26, 2008); (01/26/10)

Reference: Social Security Act sections 474(a)(3)(C), (D) and 477(f); 45 CFR 1355.40, 45 CFR 1355.50 - 1355.57 and 45 CFR 1356.60(e)

3.3 INDEPENDENT LIVING, Fiscal

No questions and answers are available at this time.

3.3A INDEPENDENT LIVING, Fiscal, Administrative Costs

1 ***Q:*** May a State use funds under section 477 of the Social Security Act (the Act) for administrative costs and information system costs?

A: Yes. Section 477(d)(1) of the Act permits a State to use its Chafee allocation in a manner that is resonably calculated to accomplish the purposes of the program. States, therefore, have flexibility in using their funds for administrative activities to assist former foster care youth and youth who are expected to age out of foster care in achieving self-sufficiency. This includes using Chafee funds for any information system development and operations cost that is consistent with the purposes in section 477(a) of the Act and to comply with any requirements promulgated under section 477(f)of the Act.

States should note, however, that pursuant to section 477(b)(3)(D) of the Act, Chafee funds may not be used to train foster parents, workers in group homes, and case managers in issues confronting adolescents. The statute provides that States must claim such training, to the extent allocable to title IV-E, as a title IV-E administrative cost (see Child Welfare Policy Manual Section 3.1H).

Source: 6/09/046/09/04

Reference: Sections 477(b)(3)(D) and 477(d)(1) of the Social Security Act, Child Welfare Policy Manual Section 3.1H.

3.3B INDEPENDENT LIVING, Fiscal, Allocations

1 ***Q:*** Will the Department allow reallocation of State unspent funds to other States that could match the additional amount?

A: Section 477(d)(4) of the statute, enacted by the Promoting Safe and Stable Families Act, provides for the reallocation of CFCIP funds for which States have not applied. If a State does not apply for its entire CFCIP allocation in a given year, the funds will be reallocated to other States. The Department will give further guidance and instructions in its yearly program instruction regarding funding and State plan updates.

Source: 7/25/027/25/02

Reference: Social Security Act 477; Public Law 107-133

2 ***Q:*** Which fiscal year and data source is being used for determining Chafee Foster Care Independence Program allocations for each State?

A: The Adoption and Foster Care Analysis and Reporting System (AFCARS) data will be used to determine allocations. The law requires that data available from the most recent fiscal year be used to determine annual allocation amounts. AFCARS reports are not available for immediate use at the end of the fiscal year; therefore, allocations will be based on AFCARS data that are two full fiscal years behind the fiscal year for which States will be receiving funds, i.e., funds allocated for FY 2001 will be based on FY 1999 data.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 477(c)

3 **Q:** How will the fact that the Chafee Foster Care Independence Program allotment will be based on the most recent AFCARS data on the number of children in State foster care as a proportion of the number of children in foster care nationwide affect States that have lowered their foster care caseloads over the last several years?

A: The Social Security Act (the Act) at section 474 (4) sets a formula, similar to that of other programs, that allows the Department to allocate the funds as equitably as possible among the States. Through the "hold harmless" clause in section 477(c)(2)(A) of the Act, a State is eligible to receive, at a minimum, its allocation for FY 1998 under the former ILP program or $500,000, whichever is greater. With these provisions in the legislation, no State will receive less funds than it received previously for the Independent Living Program. In FY 2000, only two entities received no increase in funding while others received increases in funding between two percent and 3,700+ percent.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - sections 474(a) and 477(c)

3.3C INDEPENDENT LIVING, Fiscal, Match

1 **Q:** Will all expenditures of Chafee funds require a match?

A: Yes. Section 474(a)(4) of the Social Security Act has been amended to make payments to the State at 80 percent of the total amount expended by the State. Therefore, a 20 percent State match is required. Federal reimbursement ends once the State expends its allotted amount.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 474(a)(4)

2 **Q:** Can in-kind expenditures related to room and board for qualified youth be used as State match just like any other in-kind expenditure or will there be limitations on in-kind expenditures for room and board?

A: The current Chafee Foster Care Independence Program will continue to follow the regulations at 45 CFR Part 92, Uniform Administrative Requirements for Grants...to State and Local Governments. These regulations define in-kind match, its uses and its prohibitions. When "room and board" was not allowed, those expenditures could not to be used for matching purposes. Now that "room and board" is allowed, such expenditures may be used as a match.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: 45 CFR Part 92

3 **Q:** How much of the State's funds for "room and board" can be used as matching funds?

A: The State can use any amount of its "room and board" expenditures to meet the State match requirements.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: Social Security Act - section 474(c)(4)

4 **Q:** Private agencies have stepped forward to offer CFCIP training at no cost to the State. Can the State use private agency provided training as its State match?

A: There are two types of training offered pursuant to Chafee, each with different match requirements.

Section 477(b)(3)(D) requires training for foster and adoptive parents, case managers and workers in group homes on topics and issues confronting adolescents preparing for independent living to conform to section 474(a)(3)(A) and (B) of the Social Security Act.

Longstanding Federal policy prohibits third party, in-kind contributions from qualifying as the State share under Federal matching requirements for the title IV-E program.

The second category of training under CFCIP is for youth who are participating in the program. Training provided to these youth is a service within the purposes of section 477 of the Act. The match requirements for section 477 are codified at 45 CFR 92.24 and permit the use of third party, in- kind contributions.

Source: 7/25/027/25/02

Reference: Social Security Act - section 477(b)(3)(D), section 474 of the Social Security Act, 45 CFR Part 92, Child Welfare Policy Manual, Section 8.1F

3.3D INDEPENDENT LIVING, Fiscal, Non-supplantation

1 ***Q:*** If States have utilized other Federal sources of funds (e.g., Title XX), under the former ILP, can Chafee funds be used to replace them?

A: According to section 477(d)(2), States may not supplant any funds (i.e., Federal and non-Federal) that are available for the same general purposes in the State. Chafee funds are to supplement the funds which were used for the general purposes described at sections 477(a)(1-5). States may shift funds or change priorities within the general purposes of the Chafee legislation.

Source: 7/25/027/25/02

Reference: Social Security Act - section 477

3.3E INDEPENDENT LIVING, Fiscal, Use of Funds

1 ***Q:*** Does the Chafee legislation allow States to develop and utilize trust funds for youth?

A: Yes. Trust funds are consistent with the purposes of the legislation at sections 477(a)(1) and (5), which provide for financial, as well as other appropriate support and services designed to help youth transition to adulthood. If a State chooses to establish a trust fund program for youth, the State must describe the design and delivery of the trust fund program in the State's CFCIP plan as required by section 477(b)(2)(A).

Source: 7/25/027/25/02

Reference: Social Security Act - section 477

2 **Q:** Can Chafee funds be used to rehabilitate buildings to house youth that are in the independent living program?

A: According to a long-standing Comptroller General decision, appropriated funds ordinarily may not be used for improvements to private property unless specifically authorized by law. While major improvements are not permitted, minor renovation is allowed.

Major improvements involve structural changes to the foundation, roof, floor, exterior or load-bearing walls of a facility, or the extension of a facility to increase its floor area. Major improvements also include any extensive alteration of a facility such as to significantly change its function and purpose, even if such renovation does not include any structural change.

Minor renovation may include window replacements, the addition of a wall, painting, plumbing and other minor repairs. Criteria for minor repairs include: improvements which are determined to be incidental to and essential for the effective accomplishment of the authorized purposes of the appropriations, the expenditures are in reasonable amounts, the improvements are used for the principal benefit of the Government, and the interests of the Government are fully protected.

The ACF Regional Office can provide additional guidance to States in this area.

Source: 7/25/027/25/02

Reference: Social Security Act - section 477, Controller General Decision B-141832, DHHS Grants Policy Directives (GPD) 3.04

3 **Q:** If a State currently offers a program for homeless youth, can the Chafee Foster Care Independence Program (CFCIP) be used to fund such a program?

A: The statute at section 477(d)(2) of the Social Security Act requires that CFCIP funds be used to supplement and not supplant any funds that are available for the same general purposes in the State. However, two examples of how Chafee funds might be used are: 1) CFCIP funds could expand an existing homeless youth program by funding additional beds for youth who have aged out of foster care and are thereby eligible for the program; or 2) CFCIP funds could fund an existing homeless youth program, for those who are Chafee eligible, so long as the non-supplantation requirement is met. Any funds diverted from this particular housing program must be used for services and programs that meet the purposes of the CFCIP program at section 477(a) of the Act.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477(d)(2)*

3.4 INDEPENDENT LIVING, Related Foster Care Requirements

1 **Q:** Can the permanency plan for a child when s/he is "placed in another planned permanency living arrangement" include independent living and/or emancipation in accordance with 475(5)(C) of the Social Security Act?

A: Yes. On a case-by case basis only. If the State identifies independent living as the permanency plan, it must document to the court a "compelling reason" that it is not in the best interest of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian. An example of a compelling reason found in the regulation at 45 CFR 1356.21(h)(3)(i) is the case of an older teen who requests that emancipation be established as his/her permanency plan.

Source: *Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program*

Reference: *Social Security Act - section 475, 45 CFR 1356.21(h)*

2 **Q:** What is the definition of "foster care" to be used in connection with the Chafee Foster Care Independence Program?

A: In general, the definition of foster care at 45 CFR 1355.20 applies. It defines foster care as "24 hour substitute care for all children placed away from their parents or guardians and for whom the State agency has placement and care responsibility..." However, in light of the requirement from the Social Security Act in section 477(b)(3)(G) that States make benefits and services available to Indian children on the same basis as other children in the State, children in Tribal or BIA placements who are otherwise eligible are considered to have been "in foster care" for purposes of this program.

Source: 7/25/027/25/02

Reference: Social Security Act - section 477(b)(3)(G), 45 CFR 1355.20

3 **Q:** Can foster care include non-paid relative care where a foster care maintenance payment is not being made?

A: Yes. The definition of foster care at 45 CFR 1355.20 does not require a payment.

Source: Questions and Answers on the Chafee Foster Care Independence ProgramQuestions and Answers on the Chafee Foster Care Independence Program

Reference: 45 CFR 1355.20

4 **Q:** Is an Indian boarding school considered a foster care setting for the purposes of eligibility for Chafee Independent Living services? Would it matter if the boarding school were outside the U.S., e.g., in Canada?

A: If the Indian youth is placed in the boarding school as his/her foster care placement, the youth is eligible for the services of the Chafee program. This answer is the same whether or not the Indian boarding school is in Canada.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477, 45 CFR 1355.20*

5 ***Q:*** Are youth who have been dually adjudicated with both delinquent and abuse/ neglect determinations, but are placed only in a detention facility eligible for Chafee services?

A: No. According to the definition of a child care institution, which is a foster care placement option at 45 CFR 1355.20, "detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent" are not considered foster care placements. Therefore, a youth who is placed in a detention facility is not considered to be in foster care. If the youth has never been in foster care, Chafee funds cannot be used to serve him/her.

Source: *7/25/027/25/02*

Reference: *Social Security Act - section 477, 45 CFR 1355.20*

3.5 Independent Living, Educational and Training Vouchers

1 ***Q:*** If a youth ages out of foster care in one State and then changes his or her State of residency, which State is responsible for providing a youth with an educational and training voucher?

A: For a youth in foster care, the State with placement and care responsibility is responsible for providing a voucher to an eligible youth. The State in which a former foster youth resides is responsible for providing such an eligible youth with a voucher. This provision, however, does not apply to a former foster care youth who already is receiving a voucher and moves to another State for the sole purpose of attending an institution of higher education. In that instance, we expect that the youth?s original State of residence will continue to provide a voucher to the youth for as long as the youth remains eligible for the program.

Source: *4/4/054/4/05*

Reference: *Social Security Act Section 475 and 477(b)(3)(A); Child Welfare Policy Manual Section 3.1F Q&A 2 and 3*

2 **Q:** Is the amount of a youth s educational and training voucher exempt from Federal taxes?

A: Nothing in section 477 of the Social Security Act exempts Chafee Educational and Training Vouchers or scholarships financed with general Chafee funds from Federal taxes. Under certain conditions, however, scholarships may be tax exempt. Since the Administration for Children and Families cannot provide authoritative advice on Federal taxes, the State and/or student should contact the Internal Revenue Service directly for more information.

Source: 4/4/054/4/05

Reference: Social Security Act Section 477

3 **Q:** Since one of the purposes of the Chafee Independent Living program is to provide educational services to former foster care recipients between the ages of 18 and 21 (section 477(a)(5)), can general Chafee funds be used to supplement the $5,000 per-year ceiling for a youth in the Chafee Educational and Training Voucher (ETV) program?

A: No. Appropriations law precludes the use of general Chafee funds to supplement the $5,000 per-year ceiling. When an agency has a specific appropriation for a particular item (such as ETVs), and also has a general appropriation broad enough to cover the same item (such as general Chafee funds), only the more specific appropriation may be used. Therefore, expenditures for the ETV program must be made for the specific purposes set forth in the law and limited to expenses associated with institutions of higher education. General Chafee funds may not be used for voucher expenses associated with institutions of higher education, but may be used for other non-higher education-based learning activities (such as General Equivalency Degree programs, mentoring programs and other supportive services for eligible youth). General Chafee funds may also be used for activities that are outside the scope of an institution's definition of "cost of attendance," and are not covered by the ETV program.

Source: 4/4/054/4/05

Reference: Social Security Act Sections 477(a)(5) and 477(i); GAO/OGC-91-5 Appropriations Law-Vol. 1, Chapters 2 and 4

3.5A Youth Eligibility

1 **Q:** Must a youth be 18 years of age to receive a Chafee Educational and Training Voucher?

A: No. The statute does not place any minimum age restrictions for the Chafee Educational and Training Voucher program.

Source: 4/4/054/4/05

Reference: Social Security Act - Section 477(i)(1)

2 **Q:** If a State amends its title IV-E State plan to define youth at age 14 as eligible for Chafee services, can the State also make foster care youth who are adopted at age 14 eligible for Educational and Training Vouchers (ETV) under the "youth otherwise eligible" criteria in section 477(i)(1) of the Social Security Act (the Act)?

A: No. For purposes of the ETV program, section 477(i)(2) of the Act permits former foster youth who have been adopted from foster care to be considered as "youth otherwise eligible" for services. However, it restricts eligibility to youth who are adopted on or after the youth's 16th birthday.

Source: 4/4/054/4/05

Reference: Social Security Act - Section 477(i)(1) and (2)

3 **Q:** Must students attend school full-time to receive a Chafee Educational and Training Voucher?

A: No. Federal law does not require that students attend school on a full-time basis to receive a voucher.

Source: 4/4/054/4/05

Reference: Social Security Act - Section 477(i); Higher Education Act of 1965, as amended - Section 472.

4 **Q:** If a youth has been receiving a Chafee voucher to attend college, but is not taking classes during the semester the youth turns age 21, will the youth continue to be eligible for a voucher through age 23?

A: If the State determines that the youth is still enrolled, based on the academic institution's definition of "enrollment," in a postsecondary education or training program and has been making satisfactory progress toward completing the program, despite not actually taking classes at the time the youth turns 21, the State may continue the youth's eligibility for a voucher until age 23 (section 477(i)(3) of the Social Security Act). The State should consult the individual institution's policy on enrollment and standards for satisfactory academic progress to make this determination.

Source: *4/4/054/4/05*

Reference: *Social Security Act - Section 477(i)(3)*

5 **Q:** Would a voucher be available for a youth to get an adult high school certificate or General Equivalency Degree (GED) at a community college?

A: Typically, no, because Chafee requires that a youth attend an institution of higher education, as defined in section 102 of the Higher Education Act (HEA) of 1965, as amended. Among other things, HEA defines what constitutes an "institution of higher learning" based on certain criteria. We encourage the State to consult the specific community college or institution of higher education about whether such a youth is considered a student for whom the institution can calculate the cost of attendance and whether the college or institution of higher education meets the criteria in sections 101 and 102 of HEA.

Source: *4/4/054/4/05*

Reference: *Social Security Act - Section 477(i); Higher Education Act of 1965, as amended - Section 472*

3.5B Coordination and Duplication

1 ***Q:*** The Chafee voucher program requires States to describe how they will avoid duplication of benefits under this and any other Federal assistance program. Does this mean that an award of an educational and training voucher precludes a youth from also receiving a Pell grant award?

A: No. A youth may receive both a Pell grant and a voucher. "Avoiding duplicated benefits" means that the youth cannot receive a combination of Federal educational assistance and vouchers that totals more than the actual cost of attendance, or otherwise claim for the same expense under multiple Federal programs.

Source: *4/4/054/4/05*

Reference: *Social Security Act Section 477(b)(3)(J), Section 477(i)(5)*

3.5C Eligible Expenses and Institutions

1 ***Q:*** What type of institutions fall within the definition of "institution of higher education" for the purposes of the educational and training voucher program under section 477 of the Social Security Act?

A: The term "institution of higher education" is defined in Sections 101 and 102 of the Higher Education Act (HEA) of 1965, as amended. The U.S. Department of Education, Office of Postsecondary Education, can help States determine which institutions meet the law?s criteria. In general, the term includes three different types of institutions: public and nonprofit institutions of higher education; proprietary institutions of higher education; and postsecondary vocational institutions.

A public or nonprofit institution of higher education must meet the following criteria (section 101(a) and (b) of HEA):

(1) admits as regular students only persons with a high school diploma or General Equivalency Degree (GED), OR students above the age of compulsory school attendance in the State where the institution is located;

(2) is authorized by the State to provide postsecondary education;

(3) provides an educational program for which the institution awards a bachelor?s degree or at least a two-year program (e.g., an associate degree) that is acceptable for full credit toward such a degree OR provides at least a one-year training program to prepare students for gainful

employment in a recognized occupation; and

(4) is accredited by a nationally recognized accrediting agency or association, recognized by the Department of Education, or has been granted pre-accreditation status by the agency or association, and the Secretary has determined that there is a satisfactory assurance that the institution will meet the accreditation standards of the agency or association within a reasonable time.

A proprietary (for-profit) institution of higher education must provide a training program to prepare students for gainful employment in a recognized occupation and meet the same criteria as described in (1) and (2) above for public or nonprofit schools. In addition, the institution must: be accredited by an agency or association recognized by the Department of Education; be in existence for at least two years; and, have at least 10 percent of its funding come from sources other than title IV of HEA (section 102(a)(1)(A) and 102(b) of HEA).

A postsecondary vocational institution must be a public or nonprofit school in existence for at least two years, which provides a training program to prepare students for gainful employment in a recognized occupation. The school must also meet the criteria described in (1), (2) and (4) above (section 102(a)(1)(B)) and 102(c) of HEA).

Certain institutions may not be considered an "institution of higher education" without obtaining special Secretarial approval if they have a high percentage of distance learning classes or students, incarcerated students and students without a high school degree, or have previously filed for bankruptcy or have been convicted of fraud using HEA funds (section 102(a)(3) and (a)(4) of HEA). Schools outside of the United States cannot be considered institutions of higher education for the purposes of the Educational and Training Voucher program (section 102(a)(1)(C) of HEA).

Source: *4/4/054/4/05*

Reference: *HEA of 1965 Section 101 and 102*

2 ***Q:*** Section 477(i)(4) of the Social Security Act allows States to use educational and training vouchers to pay for the "cost of attendance" up to $5,000 per year. What is included in the definition of "cost of attendance?"

A: The definition of "cost of attendance" is in section 472 of the Higher Education Act of 1965, as amended. The cost of attendance is calculated by the institution of higher education in establishing a youth?s financial need and can vary depending on the student?s full-time or

part-time status and where the student is receiving instruction (i.e., in jail, study-abroad or distance learning).

In general, the definition includes a student's:
? Tuition, fees and other equipment or materials required of all students in the same course of study
? Books, supplies and an allowance for transportation costs and miscellaneous personal expenses, including computers
? Room and board (which may vary depending on whether the student lives at home, in student-housing or an apartment)
? Child care expenses for a student who is a parent
? Accommodations related to the student's disability, such as a personal assistant or specialized equipment that is not paid for by another source
? Expenses related to the youth's work experience in a cooperative education program
? Student loan fees or insurance premiums on the student loan

Source: 4/4/054/4/05

Reference: Higher Education Act of 1965, as amended Section 472; Social Security Act Section 477(i)(4)

3 **Q:** What child care expenses are included in the definition of "cost of attendance" for the voucher program?

A: According to the Higher Education Act of 1965, as amended, if the youth has at least one child, the cost of attendance includes an allowance for child care expenses. The institution must determine the actual allowance, if any, for child care expenses. The institution's determination must be based on the number and age of the youth's child(ren) and may not exceed the reasonable cost for child care in the community where the youth lives. The expenses may cover, but are not limited to, child care necessary for class attendance, periods of study, field-work, internships, and commuting time.

Source: *4/4/054/4/05*

Reference: *Higher Education Act of 1965 Section 472*

4 **Q:** If the State is paying for the "cost of attendance" for a student under the Educational and Training Voucher program, what are allowable transportation expenses under the definition of "cost of attendance?" May the State use funds from the voucher program to pay for expenses related to a student's personal vehicle?

A: There is no statutory definition of allowable transportation expenses. The institution may determine the amount of transportation expenses, if any, to allow in determining the cost of attendance. The State should consult with the institution to determine which expenses are allowable and appropriate.

If expenses related to the student's personal vehicle are not a part of the cost of attendance, they are not an allowable expense under the voucher program. The State may pay for costs, such as a youth's car insurance or car repairs, that are reasonable and necessary for the youth to become independent or attend classes out of regular Chafee program funds.

Source: *4/4/054/4/05*

Reference: *Social Security Act Section 477*

5 **Q:** Can the State use funds awarded in the current fiscal year for the Educational and Training Voucher (ETV) program to pay all or a portion of a youth s educational or vocational student loans from previous years?

A: No. Fundamental principles of both appropriations law and grants management policy dictate that funds are not available for expenditure or obligation by the grantee (in this case, the State) until they are awarded to the grantee. Accordingly, funds cannot be expended by a grantee for costs incurred prior to the effective date of the grant award. The use of a current fiscal year's ETV funds to finance a youth's educational or vocational loans that were incurred prior to the awarding of grant funds is prohibited.

Source: 4/4/054/4/05

Reference: Social Security Act Section 477; GAO/OGC-91-5, Vol. 1, Chapter 5

6 **Q:** There is a $5,000 per year maximum per youth for the Educational and Training Voucher fund. Does this maximum apply only to Federal funds? If so, can the State spend additional dollars from all-State funds or other sources for this purpose?

A: Yes to both questions. Consistent with section 474(a)(4) of the Social Security Act, a State will be reimbursed for 80 percent of the amount of a youth?s voucher, up to the $5,000 per year/per youth maximum. The State is responsible for a 20 percent match up to that limit. The State is free to use additional State or other funds for this purpose.

Source: 4/4/054/4/05

Reference: Social Security Act Section 474(a)(4)

7 **Q:** Section 477(i)(4)(B) of the Social Security Act states that a voucher or vouchers provided for an individual "shall not exceed the lesser of $5,000 per year or the total cost of attendance, as defined in the Act." Does the $5,000 ceiling apply to an academic year, a Federal or State fiscal year, a calendar year or any 12-month period?

A: Since the law does not define the term "year" as applied to the $5,000 ceiling, the State has the discretion to decide the 12-month period to which to apply the ceiling. Accordingly, the voucher amount of up to $5,000 per year/per youth may be for any 12-month period of the State?s choosing. It should be noted, however, that the funds must be spent within the two-year expenditure period that is based on the Federal fiscal year.

Source: 4/4/054/4/05

Reference: Social Security Act Section 474(i)(B)(4)

8 **Q:** Would a voucher be available for a youth to get an adult high school certificate or General Equivalency Degree (GED) at a community college?

A: Typically, no, because Chafee requires that a youth attend an institution of higher education, as defined in section 102 of the Higher Education Act (HEA) of 1965, as amended. Among other things, HEA defines what constitutes an "institution of higher learning" based on certain criteria. We encourage the State to consult the specific community college or institution of higher education about whether such a youth is considered a student for whom the institution can calculate the cost of attendance and whether the college or institution of higher education meets the criteria in sections 101 and 102 of HEA.

Source: 4/4/054/4/05

Reference: Social Security Act - Section 477(i); Higher Education Act of 1965, as amended - Section 472

3.5D Administrative Costs

1 **Q:** Can a State claim the administrative costs under the title IV-E Foster Care program (section 474(a)(3) of the Social Security Act (the Act)) for implementing the Educational and Training Voucher program?

A: No. Only costs that are closely related to the administration of the title IV-E foster care maintenance payments or adoption assistance programs may be claimed under section 474(a)(3) of the Act.

Source: *4/4/054/4/05*

Reference: *Social Security Act Section 474*

2 **Q:** Can Chafee voucher program funds be used to pay for staffing?

A: Yes. States may use funds from the voucher program to pay for the salaries, expenses and training of staff who administer the State's voucher program. States must properly allocate costs to all benefiting programs, and the allocation of such costs must be included in the State?s approved cost allocation plan.

Source: *4/4/054/4/05*

Reference: *Social Security Act Section 477*

3.5E Match

1 **Q:** Can non-State funds (e.g., private dollars, in-kind) be used to match the voucher funds?

A: Yes. States may use third-party, in-kind sources to match Chafee funds consistent with 45 CFR Part 92.24.

Source: *4/4/054/4/05*

Reference: *45 CFR Part 92*

2 **Q:** Must State or in-kind funds used to match the voucher program follow the same program rules as the Federal dollars?

A: Yes. States may not use matching funds for unallowable costs of the voucher program or to otherwise serve youth who are ineligible for the vouchers in accordance with 45 CFR 92.24.

Source: 4/4/054/4/05

Reference: 45 CFR Part 92

3.5F Use of Funds

1 **Q:** Can funds for the voucher program be used for non-voucher related expenses, i.e., mentoring programs or other supportive activities for eligible youth?

A: No. Section 477(h)(2) of the Social Security Act (the Act) restricts funds under the voucher program to "education and training vouchers for youths who age out of foster care." Therefore, States may use voucher funds only to provide the vouchers and conduct administrative activities necessary to provide the vouchers. States may, however, use the regular Chafee program funds authorized under section 477(h)(1) of the Act to support these and other activities not allowable under the Educational and Training Voucher program.

Source: 4/4/054/4/05

Reference: Social Security Act Section 477